

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7349

THOMAS LOWERY,

Petitioner - Appellant,

v.

SC DEPARTMENT OF PROBATION PAROLE AND PARDON SERVICES;
CECILIA REYNOLDS, Warden Ker. CI,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. Terry L. Wooten, District Judge.
(3:10-cv-03011-TLW)

Submitted: January 9, 2012

Decided: January 11, 2012

Before WILKINSON and SHEDD, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Thomas Lowery, Appellant Pro Se. Tommy Evans, Jr., SOUTH
CAROLINA DEPARTMENT OF PROBATION, PAROLE & PARDON SERVICES,
Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Lowery, a state prisoner, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2011) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Lowery has not made the requisite showing. Accordingly, we deny Lowery's motion for a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

before the court and argument would not aid the decisional process.

DISMISSED